

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-34288-2025
Reserved on: 08.09.2025
Pronounced on: 30.09.2025

Rohtash ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Amit Choudhary, Advocate for the petitioner.

Mr. Birender Bikram Attrey, Addl. A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
337	31.07.2024	Sadar Fatehabad, District Fatehabad	15-B, 27-A of NDPS Act

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.

2. Per paragraph 11 of the status report, the petitioner has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	597/2018	-	8, 21 of NDPS Act	Hanumangarh Junction
2.	245/2018	-	15 of NDPS Act	Ellenabad
3.	11	10.01.2020	17 of NDPS Act	Civil Line Sirsa

3. The facts and allegations are taken from the status report filed by the State. On 31-07-2024, based on secret information, the Police seized 39.066 kg of poppy husk from possession of co-accused. The Investigator claims to have complied with all the statutory requirements of the NDPS Act, 1985, and CrPC, 1973.

4. During custodial interrogation, the main accused, Kuldeep Singh confessed before the Police officer about the involvement of the petitioner. Based on such confession before the police, the petitioner was arraigned as an accused. Apprehending arrest, he filed for anticipatory bail from the Sessions Court, which denied him bail. Feeling aggrieved, he has invoked the concurrent jurisdiction of this Court under S. 482 BNSS, 2023.

5. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

6. The petitioner's counsel submits that the petitioner would have no objection whatsoever to any stringent conditions that this Court may impose, including that if the petitioner repeats the offense or commits any non-bailable offense which provides for a sentence of imprisonment for more than seven years, or commits any offence under the NDPS Act, where the quantity involved is more than half of the intermediate, or commercial quantity, or violates S. 19, or 24, or 27-A of the NDPS Act, the State may file an application to revoke this bail before the concerned Court having jurisdiction over this FIR, which shall have the authority to cancel this bail, and may do so at their discretion, to which the petitioner shall have no objection.

7. The State's counsel opposes bail and refers to the status report.

8. It would be appropriate to refer to para 13 of the status report, which read as follows:

“13. THAT THE ROLE OF PETITIONER-ACCUSED ROHTASH IS AS UNDER:

(a) That present petitioner-accused Rohtash Mistri played a key role in the present case as he supplied the contraband to co-accused Anil Kumar alias Monu. Present petitioner-accused Rohtash Mistri introduced co-accused Anil Kumar alias Monu to co-accused Suresh Pandit, a truck driver, for the business of buying and selling poppy husk. Present petitioner-accused Rohtash Mistri facilitated the transaction by arranging the pickup of poppy husk and handing it over to co-accused Anil Kumar alias Monu. The name of present petitioner-accused Rohtash Mistri was specifically disclosed by co-accused Anil Kumar alias Monu (Annexure R-5) in his disclosure statement.

(b) The financial transactions and call records provide concrete evidence of communication and monetary dealings between petitioner-accused Rohtash and his co-accused, which corroborates the initial disclosure statements.”

9. As per FIR, the contraband is 39.066 kg of poppy husk.

10. Dealing in 39.066 kg of poppy husk in contravention of the NDPS Act, 1985, constitutes an offense under the following provisions and notifications:

Substance Name	Poppy straw
Quantity detained	39.066 Kg
Punishable U/s	S.15(b) of NDPS Act, 1985

Quantity type	Intermediate
Drug Quantity in % to upper limit of Intermediate	78.13%

Drug's Small & Commercial Qty. suggested by Committee report	
Notification No. & date	Expert Committee Report dated 24.03.1995 & 23.08.2001 (Small and Commercial)

<i>Specified as small & Commercial in S.2(viia) & 2(xxiii) NDPS Act, 1985</i>		
Notification No. & dated	S.O.1055(E)	10/19/2001
Sr. No.	110	
Common Name (Name of Narcotic Drug and Psychotropic Substance (International non-proprietary name (INN))	Poppy straw	
Other non-proprietary name	*****	
Chemical Name	*****	
Small Quantity	< 1000 Gram (i.e. equivalent to 1 Kg)	
Commercial Quantity	> 50000 Gram (i.e. equivalent to 50 Kg)	

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Declared as punishable under NDPS Act and as per schedule defined in S.2(xi) & 2(xxiii) NDPS Act, 1985		
Notification No. & dated	S.15 & S.2(xviii) NDPS Act, S.O.821(E)	11/14/1985

Sr. No.	S.2(xviii)	
Common Name (Name of Narcotic Drug and Psychotropic Substance (International non-proprietary name (INN))	*****	
Other non-proprietary name	*****	
Chemical Name	S.2(xviii) "poppy straw" means all parts (except the seeds) of the opium poppy after harvesting whether in their original form or cut, crushed or powdered and whether or not juice has been extracted therefrom; S. 2(viib)] "illicit traffic", in relation to narcotic drugs and psychotropic substances, means— (i) cultivating any coca plant or gathering any portion of coca plant;	

	<p>(ii) cultivating the opium poppy or any cannabis plant;</p> <p>(iii) engaging in the production, manufacture, possession, sale, purchase, transportation, warehousing, concealment, use or consumption, import inter-State, export inter-State, import into India, export from India or transshipment, of narcotic drugs or psychotropic substances;</p> <p>S.2 (xvii) “opium poppy” means—</p> <p>(a) the plant of the species <i>Papaver somniferum</i> L; and</p> <p>(b) the plant of any other species of <i>Papaver</i> from which opium or any phenanthrene alkaloid can be extracted and which the Central Government may, by notification in the Official Gazette, declare to be opium poppy for the purposes of this Act;</p> <p>S2. (xviii) “poppy straw” means all parts (except the seeds) of the opium poppy after harvesting whether in their original form or cut, crushed or powdered and whether or not juice has been extracted therefrom;</p>
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11. Given this, the rigors of S. 37 of the NDPS Act do not apply in the present case.

12. Section 2 (vii-a) of the NDPS Act defines commercial quantity as greater than the quantity specified in the schedule. Section 2 (xxiii-a) defines a small quantity as a quantity less than the quantity specified in the table of the NDPS Act. The remaining quantity falls in an undefined category, generally called an intermediate quantity. All sections in the NDPS Act specify an offence and mention the minimum and maximum sentence, depending upon the quantity of the substance. The commercial quantity mandates a minimum sentence of ten years of imprisonment and a minimum fine of Rupees One hundred thousand, and bail is subject to the riders mandated in S. 37 of the NDPS Act. When the quantity is less than commercial, the restrictions of Section 37 of the NDPS Act will not attract, and the factors for bail become similar to the offence regular statutes.

13. In *Baldev Singh v. State of Punjab*, SLP (Crl). 2364-2025, decided on 09-07-2025, the Hon’ble Supreme Court holds,

The petitioner before this Court is seeking an anticipatory bail, which was declined by the High Court by an order dated 16.01.2025. The petitioner is an accused for the offences punishable under Section 15B of the NDPS Act and is facing investigation. Vide order dated 09.04.2025, interim protection was granted to the petitioner, subject to cooperation in the investigation. Having considered the entire facts of the matter and the statement made by Ms. Nupur Kumar, learned counsel for the State, we do not think that this is a case where custodial interrogation of the petitioner is required. Hence, the order dated 09.04.2025 is made absolute.

14. Perusal of the status report dated 29.08.2025 reflects that petitioner was in touch with main accused and there are money transactions, call details etc. but these evidence are digital and can be procured without custodial interrogation. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail. The quantity is intermediate, and the recovery is not from the petitioner. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.

15. The law of bail, like any other branch of law, has its own philosophy, and occupies an important place in the administration of justice and the concept of bail emerges from the conflict between the police power to restrict liberty of a man who is alleged to have committed a crime, and presumption of innocence in favour of the alleged criminal.¹ Personal liberty is a very precious fundamental right and it should be curtailed only when it becomes imperative according to the peculiar facts and circumstances of the case.² Personal liberty deprived when bail is refused, is too precious a value of our constitutional system recognised under Art. 21 that the curial power to negate it is a great trust exercisable, not casually, but judicially with lively concern for the cost to the individual and the community.³

16. The evidence collected might be prima facie sufficient to launch prosecution or even to frame the charges; however, it is insufficient for the purpose of denying bail.

17. Given the penal provisions invoked, the legal admissibility of evidence collected against the petitioner, coupled with the prima facie analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or pre-trial incarceration.

18. Given the above, without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for anticipatory bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

19. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

¹ Supreme Court of India in *Vaman Narain Ghiya v. state of Rajasthan*, [E-SCR] ; [2008] 17 SCR 369, Para 16, decided on 12.12.2008.

² Supreme Court of India in *Siddharam Satlingappa Mhetre v. State of Maharashtra*, SC 2J [E-SCR], Paragraph 127, decided on 02.12.2010.

³ Supreme Court of India in *Babu Singh & ors v. State of UP*, [E-SCR] P. 777, decided on 31.01.1978.

20. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

21. The bail order is subject to the petitioner's complying with the following terms.

22. The petitioner is directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

23. Given the background of allegations against the petitioner, it becomes paramount to protect the detection squad, members of society, and incapacitating the accused would be one of the primary options until the filing of the closure report or discharge, or acquittal. Consequently, it would be appropriate to restrict the possession of firearms. [This restriction is being imposed based on the preponderance of the evidence of probability and not of evidence of certainty, i.e., beyond a reasonable doubt; and as such, it is not to be construed as an intermediate sanction]. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioner shall surrender all weapons, firearms, and ammunition, if any, along with the arms license to the concerned authority within fifteen days from the uploading of this order on the official webpage of this Court and inform the Investigator of the compliance. However, subject to the Indian Arms Act, 1959, the petitioner shall be entitled to renew and reclaim them in case of acquittal in this case, provided it is otherwise permissible under the concerned rules. Restricting firearms would instill confidence in society; it would also restrain the accused from influencing the witnesses and repeating the offense.

24. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the

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Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

25. In *Md. Tajiur Rahaman v. The State of West Bengal*, decided on 08-Nov-2024, SLP (Crl) 12225-2024, Hon'ble Supreme Court holds in Para 7, "It goes without saying that if the petitioner is found involved in such like offence in future, the concession of bail granted to him today will liable to be withdrawn and the petitioner is bound to face the necessary consequences."

26. This bail is conditional, with the foundational condition being that if the petitioner repeats the offense or commits any non-bailable offense which provides for a sentence of imprisonment for more than seven years, or commits any offence under the NDPS Act, where the quantity involved is more than half of the intermediate, or commercial, or violates S. 19, or 24, or 27-A of the NDPS Act, the State shall file an application to revoke this bail before the concerned Court having jurisdiction over this FIR, which shall have the authority to cancel this bail, and as per their discretion, they may cancel this bail.

27. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

28. It is clarified that this bail order shall not be considered as a blanket bail order in any other matter and is only limited to granting bail in the FIR mentioned above.

29. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

30. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.09.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.